BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of	)	
	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Lifeline and Link Up	)	WC Docket No. 03-109
	)	
Universal Service Contribution Methodology	)	WC Docket No. 06-122
	)	
Numbering Resource Optimization	)	CC Docket No. 99-200
	)	
Implementation of the Local Competition Provisions in the Telecommunications Act of 1996	)	CC Docket No. 96-98
	)	
Developing a Unified Intercarrier Compensation Regime	)	CC Docket No. 01-92
	)	
Intercarrier Compensation for ISP-Bound Traffic	)	CC Docket No. 99-68
	)	
IP-Enabled Services	)	WC Docket No. 04-36

COMMENTS OF THE
OKLAHOMA CORPORATION COMMISSION

The Oklahoma Corporation Commission respectfully submits its comments to the Federal Communications Commission's Order on Remand and Report and Order and Further Notice of Proposed Rulemaking, In the Matter of High-Cost Universal Service Support, WC Docket No. 05-337; Federal-State Joint Board on Universal Service, CC Docket No. 96-45; Lifeline and Link Up, WC Docket No. 03-109; Universal Service Contribution Methodology, WC Docket No. 06-122; Numbering Resource Optimization, CC Docket No. 99-200; Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98; Developing a Unified Intercarrier Compensation Regime, CC Docket No. 01-92; Intercarrier Compensation for ISP-Bound Traffic, CC Docket No. 99-68; and IP-Enabled Services, WC Docket No. 04-36 (hereinafter "Order on Remand").

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I. INTRODUCTION

1. In its Order on Remand and Report and Order and Further Notice of Proposed Rulemaking (hereinafter, "Order on Remand"), the Federal Communications Commission (hereinafter, "FCC") addresses the regulation of ISP-bound traffic in response to the D.C. Circuit's remand order in *WorldCom v. FCC* and the court's writ of mandamus in *Core Communications Inc.*[1] The FCC also seeks comment on three specific proposals which were attached as appendices.[2] Finally, the FCC seeks comment on two narrow questions related to establishment of a new cost standard and the uniformity of terminating access

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1 Order on Remand at para. 6.

2 Order on Remand at para. 40.

rates within each state.[3] The Oklahoma Corporation Commission (hereinafter, "OCC") respectfully offers its comments on these important issues.

II. BACKGROUND

2. Between 2001 and 2006, high-cost support paid by the Universal Service Fund (hereinafter, "USF") has grown from approximately $2.6 billion to $4.1 billion.[4] The increase in high-cost support is directly attributable to the increased support received by competitive eligible telecommunications carriers (hereinafter, "CETCs").[5] Support for rural incumbent local exchange carriers (hereinafter, "ILECs") has remained flat or even declined over the same period.[6]

3. In January of 2008, the FCC issued a Notice of Proposed Rulemaking seeking to remedy the unsustainable growth of USF high-cost support.[7] The OCC submitted comments to the FCC in response to the Joint Board NPRM.[8] In summary, the OCC supported elimination of the identical support rule.[9] The OCC supported division of the USF into three separate funds; a Provider of Last Resort Fund (hereinafter, "POLR

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[3] Order on Remand at para. 41.

[4] Notice of Proposed Rulemaking, In the Matter of High-Cost Universal Service Support, Federal-State Joint Board on Universal Service, WC Docket No. 05-337, CC Docket No. 96-45, FCC 08-4 (hereinafter, "Identical Support NPRM") at para. 4.

[5] Id.

[6] Id.

[7] Notice of Proposed Rulemaking, In the Matter of High-Cost Universal Service Support, Federal-State Joint Board on Universal Service, WC Docket No. 05-337, CC Docket No. 96-45, FCC 08-22, Released Jan. 29, 2008 (hereinafter, "Joint Board NPRM") and incorporated by reference: Identical Support NPRM and Notice of Proposed Rulemaking, In the Matter of High-Cost Universal Service Support, Federal-State Joint Board on Universal Service, WC Docket No. 05-337, CC Docket No. 96-45, FCC 08-5 (hereinafter, "Reverse Auctions NPRM").

[8] Comments of the Oklahoma Corporation Commission, In the Matter of High-Cost Universal Service Support, Federal-State Joint Board on Universal Service, WC Docket No. 05-337, CC Docket No. 96-45, filed Apr. 16, 2008. (hereinafter, "OCC Comments").

[9] OCC Comments, paras. 14-24.

Fund"), a Broadband Fund, and a Mobility Fund.[10] The OCC generally opposed the proposal to control USF spending using a reverse auction methodology.[11] Instead, the OCC endorsed a proposal by Panhandle Telephone Company to control USF spending using efficient and well-reasoned economic models or, as a second choice, a limited reverse auction methodology that would not put rural ILECs at risk of losing USF high-cost support.[12]

4. The proposed orders contained within the latest Notice of Proposed Rulemaking include a number of the same issues previously addressed and a number of new issues for which the FCC has not previously sought comment.[13] As it considers the new proposals contained within the Order on Remand, the OCC is mindful of the underlying principals of the USF.[14] "Consumers in all regions of the Nation ... should have access to telecommunications and information services ... that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas."[15]

5. Some of the proposed reforms are in the public interest, in keeping with the underlying principles of the USF, and will benefit both the telecommunications industry and consumers. However, other proposed reforms are not in the public interest, are not in keeping with the underlying principles of the USF, will damage the stability and health of the telecommunications industry, will drive up consumer prices for telephone service,

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10 OCC Comments, paras. 34-37.
11 OCC Comments, paras. 25-33.
12 OCC Comments, paras. 4-13 and 31.
13 Order on Remand, Appendices A, B, and C.
14 47 U.S.C. §254(b).
15 47 U.S.C. §254(b)(3).

and may deprive consumers of fundamental telecommunications services altogether. Each issue will be addressed in turn, below.

III. SUMMARY OF THE THREE PROPSALS

6. The Order on Remand contains three proposals. Appendix A is a broad proposal that would generally: 1) mandate deployment of broadband services to every customer, with no associated funding mechanism, 2) freeze USF support at current levels, 3) hold reverse auctions to determine the supported carrier, 4) eliminate the identical support rule, 5) reform the USF contribution methodology to a flat-rate numbers-based approach, 6) impose a new intercarrier compensation regime for both interstate and intrastate access rates, and 7) address the issue of unidentifiable traffic. Appendix B is a narrow proposal which would: 1) hold reverse auctions to determine the supported carrier, 2) eliminate the identical support rule, and 3) reform the USF contribution methodology to a flat-rate numbers-based approach. Appendix C is a modified version of Appendix A and generally contains the same proposals.

7. Each specific issue will be addressed below. As previously mentioned, the OCC supports some of the proposed reforms and opposes others.

IV. IDENTICAL SUPPORT RULE

8. Each of the three FCC proposals would eliminate the identical support rule.[16] The identical support rule provides CETCs with the same per-line high-cost USF support that

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16 Order on Remand, Appendix A at paras. 51-56, Appendix B at para. 16, Appendix C at paras. 51-52.

ILECs receive regardless of their actual costs.[17] It is generally accepted that CETCs, particularly wireless CETCs, have lower costs on a per-line basis than ILECs. The resulting financial incentive has led to multiple wireless CETCs to serve areas that are prohibitively expensive for even one carrier to serve without a subsidy. The identical support rule is a root cause of explosive growth in USF high-cost support payments.[18]

9. Consistent with its prior comments, the OCC supports elimination of the identical support rule.[19] This single reform will go a long way towards controlling the explosive growth of the USF and is in keeping with the underlying principles of the USF.

V. USF CONTRIBUTION METHODOLOGY

10. The FCC proposes to reform the USF contribution methodology by assessing a flat-rate charge on each residential telephone number and some other flat-rate charge on each business connection.[20] The proposed reform will ensure that all providers of telecommunications services, including providers of voice over internet protocol (hereinafter, "VoIP") services and their customers that benefit from using the public switched telephone network (hereinafter, "PSTN"), contribute to the funding mechanisms that ensure the long-term stability and health of the PSTN. The OCC supports the proposed contribution reforms.

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17 Identical Support NPRM at para. 1.

18 See Reverse Auction NPRM at para. 10 and Identical Support NPRM at para. 4.

19 OCC Comments, paras. 14-24.

20 Order on Remand, Appendix A at paras. 92-156, Appendix B at paras. 39-104, Appendix C at paras. 88-151.

11. The OCC notes that the USF contribution reform proposal described in Appendix B provides a complete and well-reasoned approach to assessing business connections.[21] The USF contribution reform proposals described in Appendix A and C delay implementation of reforms, pending the outcome of a new proceeding.[22] The OCC supports the approach taken in Appendix B because the result is certain and immediate. To the extent that adjustments to the USF contribution methodology for business connections are required in the future, the FCC can address those adjustments in a later proceeding.

VI. BROADBAND DEPLOYMENT

12. Appendices A and C contain proposals that establish an unfunded mandate to deploy broadband services capable of serving every customer within five years.[23] No USF support will offset the cost of building a broadband infrastructure.[24] Further, if an ILEC does not commit to building broadband infrastructure within five years, the FCC will cut off existing high-cost support and put the ILEC's study area up for reverse auction with the current level of support as the reserve price.[25] Appendix B does not contain a similar broadband mandate. The current proposal is a significant change from the Joint-Board NPRM proposal to establish a Broadband Fund to promote broadband

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21 Order on Remand, Appendix B at paras. 78-82.

22 Order on Remand, Appendix A at paras. 130-134 and Appendix C at paras. 126-130.

23 Order on Remand, Appendix A at paras. 19-34 and Appendix C at paras. 19-34. The OCC notes that there is a small difference between the obligations of Appendix A and Appendix C. Appendix A prohibits partnerships between ILECs and satellite providers of broadband services to satisfy broadband obligations. Appendix C allows limited partnerships between ILECs satellite providers of broadband services to satisfy broadband obligations. However, the limited partnership provisions in Appendix C extend to no more than two percent of a carrier's total loops within the ILEC's study area.

24 Order on Remand, Appendix A at para. 12 and Appendix C at para. 12.

25 Order on Remand, Appendix A at paras. 36 and 37 and Appendix C at paras. 36 and 37.

availability and provide an associated funding mechanism. In its prior Comments, the OCC supported the Joint-Board approach and the establishment of a Broadband Fund.[26]

13. The obligation to build a broadband infrastructure capable of serving every customer (Appendix A) or 98 percent of customers (Appendix C) will require significant infrastructure investment. Where will the money come from? In high-cost areas, telephone service is subsidized because the infrastructure necessary to maintain a traditional wireline infrastructure cannot be recouped from customers. It is improbable that the additional cost of a broadband infrastructure can be recouped from customers in those same high-cost areas.

14. The OCC acknowledges that there is consumer demand for broadband technologies but urges the FCC to reconsider its unfunded mandate to deploy broadband technologies through the PSTN. Other technologies, like satellite, wireless, cable, and broadband over power lines are quickly filling the void in areas where there is an absence of broadband service over telephone lines. The construction of broadband infrastructure over the PSTN capable of serving every customer without consideration of cost will have a chilling effect on the deployment of alternative broadband technologies. A technology-neutral and market-based approach will ensure that consumers get broadband services in the most economically efficient manner.

15. Further, the investment required for broadband infrastructure capable of serving every customer will likely cause severe financial distress to many rural ILECs. The issue of financial distress will be discussed in greater detail below. However, for the foregoing

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[26] OCC Comments at para. 35

reasons, the OCC urges the FCC to reconsider its proposed unfunded mandate that ILECs deploy broadband services capable of serving every customer within five years.

VII. USF SUPPORT CAP

16. Appendices A and C contain proposals that would freeze USF support at current levels.[27] Between 2001 and 2006, high-cost support paid by the USF has grown from approximately $2.6 billion to $4.1 billion.[28] The increase in high-cost support is directly attributable to the increased support received by CETCs.[29] Support for rural ILECs has remained flat or even declined over the same period.[30]

17. The OCC generally opposes the proposal to freeze USF funding at current levels. The proposed USF cap targets the support mechanisms for rural ILECs even though the FCC acknowledges that rural ILECs have not contributed to the recent growth in the USF.[31] Rural ILECs should be able to seek necessary funding as appropriate. The USF cap is a blunt instrument and does not properly account for situations where there is genuine need for additional USF support. Also, in Oklahoma, the rural ILEC may recover from the Oklahoma Universal Service Fund (hereinafter, "OUSF") any revenues lost as a result of the USF cap.

18. Instead of capping the high-cost support, the FCC should establish a system of review to determine if any USF funding increases sought are appropriate and in keeping

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27 Order on Remand, Appendix A at para. 16 and Appendix C at para. 16.

28 Notice of Proposed Rulemaking, In the Matter of High-Cost Universal Service Support, Federal-State Joint Board on Universal Service, WC Docket No. 05-337, CC Docket No. 96-45, FCC 08-4 (hereinafter, "Identical Support NPRM") at para. 4.

29 Id.

30 Id.

31 Id.

with the principles of the USF. Reforms necessary to reduce increasing USF support levels should be targeted to address the root cause of USF growth, i.e., the growth in support received by CETCs.

VIII. REVERSE AUCTIONS

19. As stated in its prior comments, the OCC opposes any reverse auction mechanism that may result in the loss of USF support for rural ILECs.[32] A reverse auction mechanism may be appropriate to limit the number of CETCs receiving USF high-cost support and would accomplish the goal of controlling and reducing USF high-cost support growth. However, a broader reverse auction that would jeopardize the availability of local wireline service will harm rural consumers, does not serve the public interest and is not in keeping with the underlying principles of the USF to ensure that rural consumers have access to telecommunications and information services that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.

20. The FCC should carefully consider the impact of a reverse auction where the ILEC loses support to a wireless CETC. The FCC has consistently ruled that state commissions have little jurisdiction and oversight over wireless carriers. State Commissions are barred by federal preemption from regulating the rates, terms and conditions, and the reliability of a carrier of last resort. The FCC would effectively preempt state commissions from regulating intrastate telecommunications. Further, the FCC has already found that consumers do not view wireline and wireless service as direct

[32] OCC Comments at para 25.

substitutes.[33] Residential and business consumers that rely on wireline service are not likely to share the FCC's enthusiasm for USF reform if they lose their wireline phones. The implementation of a broad reverse auction mechanism will likely harm consumers by reducing the telecommunications services available to rural consumers. The OCC urges the FCC to reconsider its approach and adopt reforms that are in keeping with the underlying principles of the USF.

IX. INTERCARRIER COMPENSATION

21. Appendices A and C contain proposals that would establish a ten-year plan to reduce intrastate and interstate access rates from current levels to rates that are at or below $0.0007 per minute-of-use.[34] The OCC estimates that 40 to 80 percent of the income for rural ILECs is derived from access charges. The proposed reduction in intrastate and interstate access rates will place a heavy financial burden on rural ILECs by slashing or eliminating a primary source of income.

22. The FCC recognizes that the proposed intercarrier compensation reforms will result in reduced revenues for many carriers.[35] The FCC justifies its reform with two assertions. The first assertion is that subsidized rural ILECs, simply put, make too much money and are gaming the system.[36] The OCC disagrees with this broad assumption. While the FCC notes some specific examples of mid-sized ILECs receiving subsidies while remaining highly profitable, the OCC does not believe that the same assumption

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33 Identical Support NPRM at para. 10.
34 Order on Remand, Appendix A at paras. 188-206 and Appendix C at paras. 181-201.
35 Order on Remand, Appendix A at para. 311 and Appendix C at para. 306.
36 Order on Remand, Appendix A at para. 312 and Appendix C at para. 307.

can be generally applied to all subsidized rural ILECs.[37] The FCC's argument demonizes an entire segment of the telecommunications industry for the conduct of a few companies. If there are problems with specific companies, the FCC has the authority to address those problems and those companies individually.

23. Next the FCC justifies its intercarrier compensation reform plan by asserting that excessive universal service subsidization *may* result in undesirable increases in consumers' bills.[38] Wherefore, the FCC would reform intercarrier compensation and allow affected carrier's to recoup a portion of their losses through: 1) increased subscriber line charges, 2) increased retail rates to the maximum level allowed by state law, and 3) recovery from intrastate funding mechanisms, i.e., state universal service funds.[39] The impossible logic here is that in order to avoid potential rate increases due to excessive subsidization, consumers will see an increase in local rates to the highest level allowed by state law, increase in subscriber line charges, and also an increase in the contribution rates for state universal service funds.

24. Some reform of the intercarrier compensation system may be appropriate. However, the proposal contained within Appendices A and C is not in the public interest and is not in keeping with the underlying principals of the USF to make affordable telecommunications services available to rural consumers. Under the FCC's proposal, rural ILECs will see significant reductions in revenue, which may affect their ability to provide telecommunications services to rural customers. Rural consumers will pay higher

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37 Id.

38 Order on Remand, Appendix A at para. 311 and Appendix C at para. 306.

39 Order on Remand, Appendix A at para. 299 and Appendix C at para. 294.

rates for basic telecommunications services. All consumers will pay higher contribution rates to state universal service funds. The OCC urges the FCC to reconsider its approach.

X. SIGNALING INFORMATION

25. Finally, Appendices A and C contain proposals that would place new obligations on all carriers with respect to signaling information.[40] In short, carriers would be prohibited from stripping signaling information from a call, with some limited exceptions.[41] Further, carriers would charge their highest terminating rate to originating or intermediate carriers when signaling information is, in fact, stripped from a call.[42] The OCC supports that proposal and encourages the FCC to adopt that change.

XI. OKLAHOMA SPECIFIC ISSUES

26. If the FCC approves any of the three proposals, there are some issues specific to Oklahoma which bear mentioning. Specifically, the proposals contained within Appendices A and C would have a profound impact on all Oklahoma consumers. In Oklahoma, the OUSF must pay rural ILECs for infrastructure expenditures that are a result of a governmental mandate.[43] Wherefore, the cost to deploy a broadband infrastructure would place an enormous burden on the OUSF and drive up contribution rates for all Oklahoma consumers. Similarly, the lost revenues incurred by rural ILECs as a result of reverse auctions, the USF cap, and intercarrier compensation reform would place additional burdens on the OUSF and drive up contribution rates for all Oklahoma

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40 Order on Remand, Appendix A at paras. 330-342 and Appendix C at paras. 326-338.
41 Order on Remand, Appendix A at para. 331 and Appendix C at para. 327.
42 Order on Remand, Appendix A at para. 337 and Appendix C at para. 332.
43 17 O.S. §139.106(G).

consumers. Wherefore, the OCC opposes the sweeping FCC preemption of state regulation over intrastate matters in a manner consistent with its comments, above.

XII. OVERALL IMPACT OF FCC PROPOSALS

27. The OCC believes that the overall impact of the FCC proposals, particularly Appendices A and C, will be negative. All consumers, especially rural consumers, will pay higher contribution rates for state and federal universal funding mechanisms, higher rates for subscriber line charges, and higher rates for basic telecommunications services. The combination of reduced revenues from intercarrier compensation and the unfunded mandate of broadband deployment will cause significant financial distress for many rural ILECs and may even force some out of business, thereby harming rural communities. Without the rural ILECs, the goals of universal service will not be realized. Rural consumers will not have access to telecommunications services that are reasonably comparable to their urban counterparts. Nor will rural consumers have access to telecommunications services that are provided at rates that are reasonably comparable to their urban counterparts.

XIII. CONCLUSION

28. In conclusion, the OCC supports the proposals to eliminate the identical support rule, to reform the USF contribution methodology, and to regulate the manner in which signaling information is exchanged between carriers. The OCC opposes the proposals to mandate broadband deployment without a funding mechanism, to cap USF support payments to rural ILECs, to implement a reverse auction mechanism, and to reform the intercarrier compensation regime for interstate and intrastate access charges.

Respectfully Submitted,

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